

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

WALTER BISCARDI, JR., DANIEL
DAUBE, AMANDA RIER and
STEFANIE MULLEN,

Plaintiffs,

v.

OUTDOOR MASTERCLASS, INC.
and MARK TREAGER,

Defendants.

CIVIL ACTION FILE NO:

1:22-cv-03940-MHC

JURY TRIAL DEMANDED

ANSWER TO COUNTERCLAIM

Plaintiffs/Counterclaim Defendants WALTER BISCARDI, JR., DANIEL DAUBE, AMANDA RIER, and STEFANIE MULLEN (collectively, “Employees”) timely file their *Answer to Counterclaims* in response to Counterclaim Plaintiffs Outdoor Masterclass, Inc. and Mark Treager’s (collectively, “Employers”) Counterclaim, and respectfully show the Court as follows:

FIRST DEFENSE

Some or all of the Counterclaims fail to state a claim upon which relief may be granted.

SECOND DEFENSE

Some or all of the Counterclaims fail in whole or in part due to a lack of contractual privity.

THIRD DEFENSE

Some or all of the Counterclaims fail in whole or in part due to a failure of consideration.

FOURTH DEFENSE

Some or all of the Counterclaims fail in whole or in part because Employees did not breach any alleged contract, because any alleged breach of contract by Employees is excused by Employers' material breach of its own contractual obligations, and/or because Employees' alleged breach or nonperformance was caused by Employers.

FIFTH DEFENSE

Some or all of the Counterclaims fail in whole or in part because of Employers' breach of the implied terms of good faith and fair dealing.

SIXTH DEFENSE

Some or all of the Counterclaims fail in whole or in part because Employers' own breaches of contract defeat, reduce, or set off any and all of Employers' alleged damages.

SEVENTH DEFENSE

Some or all of the Counterclaims fail in whole or in part because Employers did not suffer any damages and/or because Employees' actions or omissions were not the cause of Employers' alleged damages.

EIGHTH DEFENSE

Some or all of the Counterclaims are barred in whole or in part by the doctrines of waiver, release, estoppel, payment, privilege, or license.

NINTH DEFENSE

Some or all of the Counterclaims are barred in whole or in part by the doctrine of laches.

TENTH DEFENSE

Some or all of the Counterclaims are barred in whole or in part by fraud.

ELEVENTH DEFENSE

Some or all of the Counterclaims fail in whole or in part due to Employers' failure to mitigate their alleged damages.

TWELFTH DEFENSE

Employers are not entitled to attorney's fees under O.C.G.A. § 13-6-11 or otherwise.

THIRTEENTH DEFENSE

Employees reserve the right to assert additional defenses and/or matters of avoidance not specifically set forth herein.

FOURTEENTH DEFENSE

In response to the numbered averments contained in Employers' Counterclaim, Employees respond as follows:

218. Employees incorporate by reference Paragraphs 1-232 of their First Amended Complaint as if fully here restated.

219. Employees deny the allegations contained in Paragraph 219 of Employers' Counterclaim.

220. Employees deny the allegations contained in Paragraph 220 of Employers' Counterclaim.

221. Employees deny the allegations contained in Paragraph 221 of Employers' Counterclaim.

222. Employees deny the allegations contained in Paragraph 222 of Employers' Counterclaim.

Employees further deny the allegations contained in Employers' Prayer for Relief, and deny that Employers are entitled to any of the relief requested.

WHEREFORE, Employees pray that this Court enter judgment in their favor, dismiss the Counterclaim with prejudice, and for such other relief as justified and allowed by the evidence and as deemed appropriate by this Court.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, Employees demand a jury trial.

Respectfully submitted: December 2, 2022.

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CERTIFICATE OF SERVICE

I certify that I electronically filed the foregoing pleading with the Clerk of Court using the CM/ECF system, which will automatically send electronic mail notification of such filing to all counsel of record.

This 2nd day of December, 2022.

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